

ORDINANCE NO. O-2022-37

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE CALLING A SPECIAL ELECTION IN BENTON COUNTY, ARKANSAS ON THE QUESTION OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF JAIL FACILITIES; LEVYING A NEW ONE-EIGHTH OF ONE PERCENT (0.125%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the Quorum Court of Benton County, Arkansas (the "County") has determined that the County is greatly in need of jail facilities and facilities and improvements related thereto or in support thereof, including particularly, without limitation, new jail beds, sheriff's office, and healthcare facilities (collectively, the "Improvements"); and

WHEREAS, the County can finance all or a portion of the costs of the Improvements by the issuance of capital improvement bonds (the "Bonds") in one or more series in the maximum aggregate principal amount of \$ 167,000,000 under the authority of Amendment No. 62 to the Constitution of the State of Arkansas ("Amendment 62") and Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"); and

WHEREAS, the Authorizing Legislation provides for the levy of one or more county-wide sales and use taxes at the rate of 0.125%, 0.25%, 0.5%, 0.75% or 1% or any combination thereof, but not to exceed 1% in the aggregate; and

WHEREAS, the County does not currently have a sales and use tax levied under the authority of the Authorizing Legislation; and

WHEREAS, the County can pay the principal of and interest on the Bonds from the proceeds of a new county-wide one-eighth of one percent (0.125%) sales and use tax to be levied under the authority of the Authorizing Legislation solely for that purpose; and

WHEREAS, the County may provide additional funds to pay or to further secure payment of the Bonds if a new county-wide one-fourth of one percent (0.25%) sales and use tax levied by Ordinance No. O-2022-35, adopted August 25, 2022, for jail and law enforcement purposes, is approved by the voters; and

WHEREAS, the purpose of this Ordinance is to levy a sales and use tax at the rate of one-eighth of one percent (0.125%) on the receipts from the sales at retail within the County of all items which are subject to taxation under the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. §§26-52-101, et seq.), and the receipts from storing, using, distributing or consuming within the County tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.) (collectively, the "Sales and Use Tax") and to submit to the electors of the County the question of issuing the Bonds under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose;

NOW, THEREFORE, BE IT ORDAINED by the Quorum Court of Benton County, Arkansas:

Article 1. Under the authority of the Authorizing Legislation, there is hereby levied the Sales and Use Tax. The Sales and Use Tax shall be levied, and the net collections received after deduction of the administrative charges of the State of Arkansas and required rebates shall be used solely for the purpose of retiring or paying obligations with respect to the Bonds. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas law, subject to rebates and limitations as from time to time required by Arkansas statutes for certain single transactions. The levy of the Sales and Use Tax shall not take effect until the issuance of the Bonds is approved by the voters as provided herein.

Article 2. There is hereby called a special election to be held on November 8, 2022, at which election there shall be submitted to the electors of the County, the question of issuing the Bonds in one or more series under Amendment 62 and the Authorizing Legislation in the aggregate principal amount of not to exceed \$167,000,000 to be payable, in whole or in part, from the net collections of the Sales and Use Tax.

Article 3. The question of issuing the Bonds shall be placed on the ballot for the election in substantially the following form:

**JAIL FACILITIES BONDS AND
0.125% SALES AND USE TAX**

An issue of bonds of Benton County in one or more series in the maximum aggregate principal amount of \$167,000,000 to finance all or a portion of the costs of acquiring, constructing, improving, renovating, expanding, equipping and furnishing jail facilities, and facilities and improvements related thereto or in support thereof, including particularly, without limitation, new jail beds, sheriff's office, and health care facilities, and, in order to pay the bonds, the levy and pledge of a 0.125% local sales and use tax within the County that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

If the bonds are approved, there will be levied within the County a new 0.125% sales and use tax, the net collections of which remaining after deduction of the administrative charges of the State of Arkansas and required rebates will be used solely to retire or pay obligations with respect to the bonds in accordance with Amendment No. 62 to the Arkansas Constitution. In order to provide additional funds to pay or to further secure repayment of the bonds, the County may also pledge to the bonds the net collections of an additional county-wide 0.25% sales and use tax if such additional tax is separately approved by the voters. The issuance of the bonds is not dependent on the additional 0.25% sales and use tax being approved.

FOR..... ☐

AGAINST ☐

Article 4. The election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for county elections unless otherwise provided in the Authorizing Legislation and only qualified voters of the County shall have the right to vote at the election.

Article 5. The results of the election shall be proclaimed by the County Judge, and the Proclamation shall be published one time in a newspaper having a general circulation in the County, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

Article 6. A copy of this Ordinance shall be (a) filed with the Benton County Clerk at least 70 days prior to the election date and (b) given to the Benton County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Article 7. The County Judge and County Clerk, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the issuance of the Bonds is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Authorizing Legislation, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Article 8. If the Bonds are approved and issued, the County intends to negotiate with Crews & Associates, Inc., which has assisted the County in preparation of the Bond size and repayment structure, for the sale of the Bonds.

Article 9. The provisions of this Ordinance are separable and if an article, phrase or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of the Ordinance.

Article 10. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

ADOPTED: August 25, 2022.

APPROVED:

/s/ Barry Moehring
BARRY MOEHRING, COUNTY JUDGE
DATE SIGNED: 08-25-2022

ATTEST:

/s/ Betsy Harrell
BETSY HARRELL, COUNTY CLERK
SPONSOR: JP Joel Jones
DATE ADOPTED: August 25, 2022
Votes For: 14 Votes Against:
Abstain: Present: Absent: 1